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A P P E A R A N C E S:

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P R O C E E D I N G S :

THE COURT: We're here in Todd White v. Ricky Bell, et al, Case Number 3:10-00863. We're here for a final pretrial conference.

MR. COOPER: Your Honor, David Cooper and David Winters are here for the plaintiff.

MS. BRENNER: Jennifer Brenner and Rebecca Lyford for Defendants Gaelan Doss and Sean Stewart.

THE COURT: There is an individual defendant.

MR. COOPER: Yes, Mr. McCall.

THE COURT: The Court will note that he is not present.

Well, we tried this once, so I don't really need to repeat trial procedures. I will get to the motions in limine on the morning of trial. Although I think the motion for jury instructions prior to closing is something so unusual, I think it's likely to be denied.

MR. COOPER: Okay.

THE COURT: You all can't settle this case?

MR. COOPER: Oh, Your Honor, I wish.

THE COURT: Forget the damages. Think of attorney's fees.

MS. BRENNER: Your Honor, Mr. Cooper and I have discussed it recently. I expressed his settlement offer to the Department. I still maintain there's three defendants. I represent two of them. I'm convinced of their --

1 THE COURT: Isn't there an indemnity provision for
2 state officials?

3 MS. BRENNER: The Department's philosophy is there --
4 there is a strong public policy argument against settling.

5 THE COURT: I used to represent the Department of
6 Corrections. We settled a whole bunch of lawsuits.

7 MS. BRENNER: They don't want to settle a case on
8 behalf of two defendants who we strongly believe had nothing to
9 do with Mr. White's injuries.

10 THE COURT: All right. Any other matters?

11 MR. COOPER: Judge, I can't think of anything right
12 now. I mean, we, of course, had a pretrial conference before,
13 so we're kind of prepared with the facts, all that good stuff.

14 MS. BRENNER: Two quick issues. We're going to be able
15 to bring in the shield and the restraints again, and the last
16 time you had us go through the Marshal's Service, they asked us
17 to get a court order from you. As soon as we have permission
18 from them, I will submit an order. Is that how you want to do
19 it?

20 THE COURT: That's fine with me.

21 MR. COOPER: I did have one thing after Ms. Brenner
22 stood. She may have two things.

23 MS. BRENNER: I'm curious about how we refer to the
24 first trial.

25 THE COURT: We don't.

1 MS. BRENNER: If we want to impeach testimony that was
2 given?

3 THE COURT: You can ask them whether you previously
4 testified.

5 MS. BRENNER: Okay. So we're not going to
6 distinguish --

7 THE COURT: But we're not going to talk about any prior
8 trial. Have you previously testified in this matter. That
9 happens in depositions, so I don't see there is any danger
10 there.

11 MR. COOPER: That shouldn't be a problem from our side,
12 Your Honor. One thing, I'm really talking about the video of
13 the cell extraction. The video was put in evidence in the first
14 trial. I assume it's still in evidence. Should we do a new
15 sticker?

16 THE COURT: If you want to retrieve it and save the
17 cost of doing another video.

18 MR. COOPER: Okay. I will have new stickers on the
19 other.

20 THE COURT: We'll just do a copy of the -- a visual
21 copy of the video showing what the exhibit number was at the
22 first trial.

23 MR. COOPER: Okay. Would it be all right to check with
24 one of your courtroom deputies about that, Your Honor?

25 THE COURT: Yes, that's fine. One of my law clerks.

1 Any other matters, either side?

2 MS. BRENNER: No, Your Honor.

3 THE COURT: We're adjourned.

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REPORTER'S CERTIFICATE

I, Peggy G. Foster, Registered Professional Reporter for the United States District Court for the Middle District of Tennessee, with offices at Nashville, do hereby certify:

That I reported on the Stenograph machine the proceedings held in open court on January 12, 2015, in the matter of TODD WHITE v. GAYLE RAY, et al, Case No. 3:10-cv-0863; that said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript, Pages 1 through 6, is a true and accurate record of said proceedings.

This the 7th day of November, 2015.

Peggy G. Foster
S/Peggy G. Foster, RPR
Registered Professional Reporter